

# Ordinance Enactment Ordinance

## Town of Bar Harbor

### An Amendment to establish a process for Ordinance Enactment

*The Town of Bar Harbor hereby ordains that Chapter 125, Land Use of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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## Chapter 125, LAND USE

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### ARTICLE I, General Provision

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#### § 125-9. Amendment.

- A. The Town Council may, on its own initiative or upon the written request of the Planning Board, and shall, on the written petition of a number of registered voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election, but in no case fewer than 10, insert in the warrant for a regular or special Town Meeting an article to amend this chapter.
- B. The Town Council may, before inserting such an article in a warrant, hold a public hearing to receive public comment on the advisability of same.
- C. The Planning Board may, before requesting the Town Council to insert such an article in a warrant, hold a public hearing to receive public comment on the advisability of same.
- D. The Planning Board, may, upon a written request from a property owner, submit a written request to the Town Council to insert in the warrant for a regular Town Meeting an article to amend this chapter.
  - (1) Such request shall contain at a minimum the following materials:
    - (a) An application form from the Planning Department
    - (b) A map showing the existing neighborhood districts for the subject property and for properties within 600 feet;
    - (c) A map showing the existing land uses at the time of application for the abovementioned subject property and area;
    - (d) A narrative and evidence of how the requested change meets the policies and strategies as contained in the most recently adopted Comprehensive Plan (including the Land Use Plan);
    - (e) Other information necessary to illustrate the need for a change in the district or other standards in this chapter.
  - (2) Within 30 days of the written request, together with fees and materials, the Planning Board shall meet to determine if the application is complete for their review. A public hearing will be held within 45 days of the Planning Board finding the application com-

plete.

- (3) Notification to abutters within 600' of the subject property and a notice to a newspaper of general circulation at least 10 days prior to the hearing shall occur.
  - (4) At the public hearing, the Planning Board shall hear the request, accept public comment on the request and deliberate to determine which of the following courses of action they will perform:
    - (a) Recommend to the Town Council the written request as submitted as per 125-9.A.
    - (b) Recommend to the Town Council the written request as may be amended by the Planning Board to be in keeping with the most recently adopted Comprehensive Plan.
    - (c) Take no action.
  - (5) If the Planning Board takes no action on the written request, the subject property owner may seek other alternatives outlined in Section 125-9.A. Planning Board action under Section 125-9 is not the subject of appeal under Section 125-103.
  - (6) The Planning Board shall submit its decision to the Town Council within 30 days of the close of the public hearing.
- E. If an article to amend this chapter is inserted in the warrant for a regular or special Town Meeting, the Planning Board shall, at least 30 days prior to such meeting, hold a public hearing on the proposed amendment, with notice of such hearing, written in plain English, understandable to the average citizen, to be given as follows: [Amended 5-4-1998]
- (1) Notice of the hearing shall be posted in the municipal office at least 13 days prior to such hearing.
  - (2) Notice of the hearing shall be published at least two times in a newspaper that complies with 1 M.R.S.A. § 601 and that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing, and the date of the second publication must be at least seven days before the hearing.
  - (3) In addition to the notice required by the preceding two subsections, when an amendment is proposed to the Neighborhood Districts Map of Bar Harbor that, within a geographically specific portion of the Town, will have the effect of either prohibiting all industrial, commercial or retail uses where any of such uses is permitted or permitting such uses where any of such uses is prohibited, the following is required:
    - (a) The notice must contain a copy of the map indicating the portion of the Town affected by the proposed amendment.
    - (b) For each parcel within the Town that is in or abutting the portion of the Town affected by the proposed amendment, the notice must be mailed by first-class mail at least 13 days prior to the public hearing to the last known address of the person to whom property tax on each parcel is assessed. The municipal officers shall prepare and file with the Town Clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. This certificate shall constitute prima facie evidence that notice was sent to those persons named in the certificate. Notice is not required under this subsection for any type of zoning ordinance adopted under the laws governing growth management contained in Chapter 187, Subchapter II of 30-A M.R.S.A., as amended, or the laws governing shoreland zoning contained in Title 38, Chapter 3, Subchapter I, Article 2-B, as amended.<sup>iEN</sup>

**E.F.** Following a hearing conducted pursuant to the preceding subsection, the Planning Board shall, by majority vote, make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted. Such recommendation shall be printed on the warrant.

**F.G.** If the Planning Board recommends a proposed amendment, such amendment may be adopted by a majority vote at a duly constituted Town Meeting. If the Planning Board does not recommend a proposed amendment, such amendment may be adopted only by a two-thirds majority vote at a duly constituted Town Meeting.

**G.H.** Copies of amendments to this chapter related to shoreland regulation, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Meeting and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner. [Amended 11-5-1991; 5-4-1992]

*[end of ordinance]*

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LEGISLATIVE HISTORY:

Introduced: \_\_\_\_\_

Town Attorney Approved: \_\_\_\_\_

Revised in response to Council input: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

***Draft 2***

**As Drafted by Planning Department 5/24/10  
June 2, 2010 Planning Board Meeting**

Council Adopted: \_\_\_\_\_

Sent for Codification: \_\_\_\_\_

<sup>i</sup> Editor's Note: See 30-A M.R.S.A. § 4312 et seq. and 38 M.R.S.A. § 435 et seq., respectively.